

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Lakes of Columbia )  
Dist. 9, Map 88, Control Map 88, Parcel 51.02 ) Maury County  
Commercial Property )  
Tax Year 2005 )

## INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

**Effective January 1, 2005**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$294,200	\$ -0-	\$294,200	\$117,680

**Effective May 1, 2005**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$294,200	\$5,640,400	\$5,934,600	\$2,373,840

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 21, 2006 in Columbia, Tennessee. In attendance at the hearing were Thomas Ford, Maury County Property Assessor's representative Bobby C. Daniels and George Hoch of the Division of Property Assessments.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a recently constructed 154 unit apartment complex located at 1422 Club House Drive in Columbia, Tennessee.

Pursuant to Tenn. Code Ann. § 67-5-603(b), the assessor of property issued a prorated assessment effective May 1, 2005 which valued subject improvements at the current appraised value of \$5,640,400. The taxpayer does not dispute that subject improvements were ready for use or occupancy within the meaning of the statute as of May 1, 2005.

The taxpayer maintained that the prorated assessment should not become effective until January 1, 2006 because the property was not generating any income as of May 1, 2005. The taxpayer asserted that from an economic standpoint subject improvements had no value on May 1, 2005. The taxpayer also stressed that the owners of subject property had not budgeted for the taxes resulting from the prorated assessment. Mr. Ford stated that in his opinion, equity requires delaying the implementation of the prorated assessment until subject property begins generating a meaningful cash flow.



The assessor contended that Tenn. Code Ann. § 67-5-603(b) requires the recently constructed improvements to be placed on the tax rolls. Mr. Daniels introduced evidence to show that the taxpayer's actual construction costs as well as a Marshall and Swift cost approach support the current appraisal of subject property. Mr. Daniels noted that for proration purposes subject improvements had been depreciated by 33%.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

Since the taxpayer is appealing from the determination of the Maury County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that subject improvements were properly placed on the tax rolls since they were ready for use or occupancy within the meaning of Tenn. Code Ann. § 67-5-603(b). The administrative judge finds that the assessor properly valued the improvements using the cost approach because Tenn. Code Ann. § 67-5-1601(a)(3) provides that: "... new improvements. . . shall be valued on the same basis as similar improvements were valued during the last revaluation or otherwise as necessary to achieve equalization of such values. . ."

The administrative judge finds that the taxpayer is always free to challenge the assessor's value utilizing any accepted approach to value. Respectfully, the taxpayer did not introduce a cost, sales comparison or income approach into evidence.

The administrative judge finds the taxpayer's contention that subject improvements had no economic value on May 1, 2005 without merit. The administrative judge finds that most apartment complexes typically have a lease-up period and do not immediately begin generating an income stream. The administrative judge finds that rather than attributing no value to millions of dollars worth of construction, any reasonably prudent investor would normally utilize a discounted cash flow analysis or the like to account for the lease-up period necessary to generate a stabilized income stream.

The administrative judge finds that the taxpayer's equity argument must be rejected. The administrative judge finds the fact the taxpayer failed to budget an adequate amount for taxes irrelevant to the issue of value. Moreover, the administrative judge fails to understand how the prorated assessment can be characterized as inequitable. Finally, even if the prorated assessment was somehow inequitable, the administrative judge finds that the State Board of Equalization lacks equitable powers and cannot decline to follow a statutory



requirement. See *Trustees of Church of Christ* (Obion Co., Exemption) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

There is no doubt that during the tax years at issue here, 1988 and 1989, the applicant was an exempt religious institution using its property for the religious purposes for which it exists, as required by our statute to qualify for property tax exemption. The applicant had not, however, made its application as the statute requires for tax years 1988 and 1989. The church urges the Commission to exercise equitable powers and take into consideration the unfortunate circumstances that led it to delay its application. We have no power to waive the requirements of the exemption statute, however.

Final Decision and Order at 2.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

##### Effective January 1, 2005

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$294,200	\$ -0-	\$294,200	\$117,680

##### Effective May 1, 2005

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$294,200	\$5,640,400	\$5,934,600	\$2,373,840

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

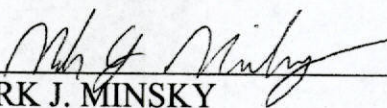


relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of June, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Thomas Ford  
Jimmy R. Dooley, Assessor of Property